



Appeal Decision

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th November 2025

Appeal Ref: APP/V2635/X/24/3340721

Caravan at Finesse Motorsport Ltd, The Common, Upwell, Norfolk PE14 9AW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Neil Giddings against the decision of King's Lynn and West Norfolk Borough Council.
 - The application ref 23/01280/LDE, dated 12 July 2023, was refused by notice dated 11 December 2023.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which a certificate of lawful use or development is sought is an existing caravan in residential use for more than ten years.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse the application was well founded. This turns on whether the appellant can show, on the balance of probability, that the appeal site has been used for the siting of a caravan for residential purposes for a continuous period of ten years, and as such, the time for enforcement action has expired or for any other reason. The relevant time period for assessing this is 12 July 2013 to 12 July 2023.

Reasons

3. An LDC is not an application for planning permission. Its purpose is to enable the appellant and others to ascertain whether specific operations or activities would be lawful. The burden of proof is upon the appellant. The test of the evidence is one of balance of probability. The appeal concerns only the lawfulness of the matter for which the LDC is sought, not its planning merits. The decision is based on the facts of the case and on relevant planning law and judicial authority.
4. An application under S191(1)(a) of the Act seeks to establish whether any existing use of buildings or other land are lawful. S191(2)(a) confirms that a use is lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason) and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
5. S191(4) of the Act sets out that if, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect.
6. With regard to s191(4) of the Act, the relevant date for ascertaining whether the existing development is lawful is the date of the LDC application. Nevertheless, I

have had regard to and determined the appeal based on the information that was submitted with the LDC application and with the appeal.

7. The appellant claims that the site has been in residential use for around 17 years, as a caravan has been stationed on the land in connection with that use, but that this use has at least taken place since October 2006, given the aerial image from this time. The series of aerial images are annotated to refer to a caravan which the appellant says has been moved around the site at different points in time. Moving a caravan around the site does not alter the merit of the claimed use, and taking the images at their highest, they appear to show a caravan on the land in December 2006, September 2018, July 2020, and June 2021.
8. When the images from 2018, 2020 and 2021 are taken alongside Council Tax payments made since 23 May 2018, I consider, on the balance of probabilities, that a caravan has been sited on the land and used for residential purposes between 23 May 2018 and 12 July 2023. However, this period is only around half of the required ten-year period.
9. There are large gaps between the aerial images in 2006 and 2016, but the 'caravan' labelled in the 2016 image is of a different colour to the caravan labelled in the 2006 image. While the same caravan need not have been used across the required period, provided there was no break in the claimed use taking place, the colour of the 2016 'caravan' appears to be the same and in the same location as the 'container' labelled in the 2018, 2020 and 2021 images. Hence, I am not satisfied that the 'caravan' in the 2016 image is in fact a caravan. Nor is there any evidence to support the assertion that the caravan used for residential purposes was located within a shed between 2009 and 2016.
10. Furthermore, the absence of Council Tax payments for any period before 23 May 2018, despite the claimed occupation by the appellant and his family members, undermines the claimed use. It is also unusual that there is no other evidence to support the claimed use, including during the period between May 2008 and May 2018 when the appellant moved out of and back into the caravan, and the appellant's son was purportedly living in the caravan on the land.
11. While an address search may include reference to the 'caravan' at the site, this, on its own, does not demonstrate a residential use of the land or across the required period given that caravans can be used for other purposes also.
12. Although the appellant has sought to obtain planning permission for a dwelling on the land, I am not considering the planning merits here. While the appellant has demonstrated that the claimed use has occurred between 23 May 2018 and 12 July 2023, I conclude, on the balance of probabilities, that the appeal site has not been used by a caravan for residential purposes for more than ten years.

Conclusion

13. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for an existing caravan in residential use for more than ten years is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

Andrew McGlone

INSPECTOR